

REMARKS

Claims 1, 2 and 5-8 are pending in the application. In the non-final Office Action of May 13, 2005, the Examiner made the following disposition:

- A.) Rejected claims 6-8 under 35 U.S.C. §102(e) as being unpatentable over *Fan*.
- B.) Rejected claims 1, 2 and 5 under 35 U.S.C. §103(a) as being unpatentable over *Darnell* in view of *Miyamoto*.

Applicants address the Examiner's disposition as follows:

- A.) Rejection of claims 6-8 under 35 U.S.C. §102(e) as being unpatentable over *Fan*:

Applicants respectfully disagree with the rejection.

Independent claims 6 and 7 have each been amended to claim subject matter relating to independently controlling packet order by software and packet flow rate by hardware. (*See, e.g.*, Applicants specification page 16, line 10-page 17, line 10 for an illustrative description of the claimed subject matter of claims 6 and 7).

This is clearly unlike *Fan*, which fails to disclose or suggest independently controlling packet order by software and packet flow rate by hardware. Referring to *Fan* Figure 3, *Fan* discloses a hardware scheduler in its output ports (*e.g.*, OP1). The hardware scheduler controls packet order. Since *Fan* teaches a hardware scheduler, *Fan* fails to anticipate claims 6 and 7. Further, *Fan* fails to suggest that its scheduler can be implemented in software. Thus, for at least this reason, *Fan* fails to disclose or suggest claims 6 and 7.

Claim 8 has been canceled.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

- B.) Rejection of claims 1, 2 and 5 under 35 U.S.C. §103(a) as being unpatentable over *Darnell* in view of *Miyamoto*:

Applicants respectfully disagree with the rejection.

Claims 1 and 2:

Independent claim 1 claims subject matter relating to transmitting packets on a packet network. Claim 1 claims controlling a timing of packet transmission in a transmission terminal on a packet network, and controlling the amount of data to be transmitted per unit time from the transmission terminal to the network. A packet is transmitted at an interval according to a packet

size.

This is clearly unlike *Darnell* in view of *Miyamoto*, which fails to disclose or suggest controlling a timing of packet transmission on a packet network. *Darnell* discloses scheduling the transmission of frames on a frame-based network, but fails to even relate to transmitting packets on a packet network. Claim 1 relates to controlling a timing of packet transmission on a packet network. As *Darnell* fails to even relate to packet transmission, *Darnell* fails to suggest controlling a timing of packet transmission on a packet network.

Darnell in view of *Miyamoto* still fails to disclose or suggest controlling a timing of packet transmission on a packet network. Therefore, *Darnell* in view of *Miyamoto* fails to disclose or suggest claim 1.

Claim 2 depends directly from claim 1 and is therefore allowable for at least the same reasons that claim 1 is allowable.

Claim 5:

Independent claim 5 claims time calculating means for calculating time necessary for transmitting a packet, and means for controlling a timing of packet transmission based on the time for transmitting each packet, calculated by the time calculating means.

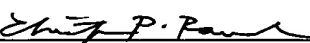
As discussed above with reference to claims 1 and 2, *Darnell* in view of *Miyamoto* fails to even relate to controlling a timing of packet transmission. Therefore, *Darnell* in view of *Miyamoto* fails to disclose or suggest claim 5.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

CONCLUSION

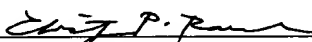
In view of the foregoing, it is submitted that claims 1, 2 and 5-7 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

 (Reg. No. 45,034)
Christopher P. Rauch
SONNENSCHN, NATH & ROSENTHAL LLP
P.O. Box #061080
Wacker Drive Station - Sears Tower
Chicago, IL 60606-1080
Telephone 312/876-2606
Customer #26263
Attorneys for Applicant(s)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited as First Class Mail in an envelope addressed to Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450 on October 13, 2005.

 (Reg. No. 45,034)
Christopher P. Rauch